

7/6/01  
jm

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA  
ex rel

Paul Roberson #59886  
Full name & prison number  
(if any) of Petitioner

1:CV 01-1235  
NO.

v.

I. N. S.  
Name of Respondent

FILED  
SCRANTON

JUL - 2 2001

(PERSONS IN FEDERAL CUSTODY)

PER jm  
DEPUTY CLERK

PETITION FOR WRIT OF HABEAS CORPUS

Instructions - READ CAREFULLY

1. In order for this petition to receive consideration by the District Court, it shall be in writing (legibly handwritten or typewritten), and the unsworn declaration signed by the petitioner. It shall set forth in concise form the answers to each applicable question. If necessary, petitioner may finish his answer to a particular question on the reverse side of the page or on an additional blank page. Petitioner shall make it clear to which question any such continued answer refers.

2. Any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Petitioners should therefore exercise care to assure that all answers are true and correct.

3. When the petition is completed, the original and three copies shall be mailed to the Clerk, United States District Court, Middle District of Pennsylvania, P.O. Box 1148, Scranton, Pa. 18501.

If you are unable to pay the \$5.00 filing fee for this action, you may petition the court to proceed in forma pauperis. Two blank petitions for this purpose are included in this packet. One copy should be filed with your complaint; the other copy is for your records.

1. Place of detention York County Prison, York, PA.
2. Name and location of court which imposed sentence Kings  
County Supreme Court, Brooklyn, N.Y.
3. The indictment number or numbers (if known) upon which  
and the offense or offenses for which sentence was imposed:  
(a) Indictment # unknown / Assault  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_
4. The date upon which sentence was imposed and the terms of  
the sentence:  
(a) August 23, 1999 / 2 years  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_
5. Check whether a finding of guilty was made  
(a) after a plea of guilty ✓  
(b) After a plea of not guilty \_\_\_\_\_  
(c) after a plea of nolo contendere \_\_\_\_\_
6. If you were found guilty after a plea of not guilty, check  
whether that finding was made by  
(a) a jury N/A  
(b) a judge without a jury \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the im-  
position of sentence?

- NO -

8. If you answered "yes" to (7), list

(a) the name of each court to which you appealed:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(b) the result in each such court to which appealed:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(c) the date of each such result:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(d) if known, citations of any written opinions or orders entered pursuant to such results:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Mandatory Detention is Unconstitutional.

(b) Having been granted withholding under CAT, my release should be effectuated in the interim. AND I Sh GRANTED FOR BOND, PENDING B.I.A Decision

(c)

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) *Koita v Reno*, 113 F. Supp. 2d. 737

(M.D. PA., Sept. 27, 2000) held that mandatory detention is unconstitutional.

(b) Petitioner was granted withholding under CAT on December 21, 2000.

(c)

11. Have you filed previous petitions for habeas corpus motions under Section 2255 of Title 28, United States Code, or any other applications, petitions or motions with respect to this conviction:

NO

12. If you answered "yes" to (11), list with respect to each petition, motion or application

(a) the specific nature thereof:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(b) the name and location of the court in which each was filed.

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(c) the disposition thereof.

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(d) the date of each such disposition:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(e) If known, citations of any written opinions or orders entered pursuant to each such disposition:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

13. If you did not file a motion under Section 2255 of Title 28 United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

(a) *28 USC 2255 is applicable only to persons in federal detention proceedings.*

(b)

(c)

14. Has any ground set forth in (9) been previously presented to this or any other federal court by way of petition for habeas corpus, motion under Section 2255 of Title 28, United States Code, or any other petition, motion or application:

*- NO -*

15. If you answered "yes" to (14), identify

(a) which grounds have been previously presented:

- 1. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- 1. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

16. Were you represented by an attorney at any time during the course of

(a) your arraignment and plea: yes

(b) your trial, if any: yes

(c) your sentencing: yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

N/A

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed:

N/A

17. If you answered "yes" to one or more parts of (16), list

(a) the name and address of each attorney who represented you:

- 1. DO NOT RECALL

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

18. If you are seeking leave to proceed in forma pauperis, have you completed the unsworn declaration setting forth the required information (see instructions, page 1 of this form).

Executed at \_\_\_\_\_

York County Prison, York, PA  
Name of institution, city, state

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_

Date

\_\_\_\_\_  
Signature of Petitioner



(see instructions, page 1 of this form)

FORMA PAUPERIS DECLARATION

I, \_\_\_\_\_, do hereby certify that I am a citizen of the United States of America that because of my poverty I am unable to pay the costs of said suit or action; that I am unable to give security for the same: and that I believe I am entitled to the redress I seek in said suit or action.

I have in my prison account \$ 0.42.

Executed at \_\_\_\_\_

Name of Institution, City, and State

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_

3/27m/01  
Date

Roberson Paul

Signature of Petitioner

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

United States

v

\_\_\_\_\_  
Petitioner

CERTIFICATE

I hereby certify that the petitioner herein has the sum of  
\$ 0.42 on account to his credit at the  
York County Prison institution where he is confined.

I further certify that petitioner likewise has the following  
securities to his credit according to the records of said  
York County Prison institution:

None

Paul R. True  
Authorized Officer of Institution